

Appln No. 10/612,518
Amdt date August 21, 2008
Reply to Office action of May 29, 2008

REMARKS/ARGUMENTS

Claims 1-47 are pending, of which claims 22-37 and 39-47 are withdrawn. Claims 1 and 38 are amended to correct a typographical error.

The undersigned attorney thanks the Examiner for his time for the interview on August 21, 2008.

Claims 1-8, 10-13, 15-21, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable in view of Sanchez et al. (U.S. 2002/0174011) in view of Walker et al. (U.S. 7,251,617) and further in view of Schwarz, JR. (U.S. 6,945,453). Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sanchez et al. in view of Walker et al. (U.S. 6,415,262) and Schwarz, Jr. (U.S. 6,945,453) and in further view of Walker et al. (U.S. 6,415,262). Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sanchez et al. in view of Walker et al. ('617) and Schwarz, Jr. and in further view of Ahrens et al. (U.S. 2002/0156676). Applicant submits that all of the claims currently under examination in this application are patentably distinguishable over the cited references for the following reasons, and reconsideration and allowance of this application are respectfully requested.

Independent claims 1 and 38 include, among other limitations, "receiving by a collaborative affinity marketing system enrollment information from the plurality of aggregators," "selecting by the participant a selected aggregator from the plurality of aggregators," "sending a portion of the funds received by the processor to the aggregator," and "wherein each of the processor, aggregator, participant, and merchant has a respective access right for accessing the stored information in the database and different portions of the stored information are accessible by the processor, aggregator, participant, and merchant based on the respective access right, and wherein the collaborative affinity marketing system is capable of enrolling the participant while maintaining participant's anonymity from the aggregator, the merchant, and the processor." None of the cited references, alone or in combination, teach or suggest the above limitations.

First, with respect to the limitation of "receiving by a collaborative affinity marketing system enrollment information from the plurality of aggregators," there is no teaching or

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suggestion in Sanchez/Schwarz combination for this limitation. The Examiner construes "at least one host as including two or more hosts constituting a plurality of hosts (aggregators). (See Office action, page 3, middle of last paragraph.). Applicant respectfully disagrees. Applicant fails to see any mention of "at least one host" in the disclosure of Sanchez. In fact, FIG. 1 of Sanchez shows only one host 20 and FIG. 2 refers to that one (the) host. Although, Sanchez mentions that "the host 20 comprises one or more web and/or database servers 22," (paragraph [0050], first two lines) this does not mean that there are more than one host 20. Even, if for the sake of argument, Sanchez had more than one host, none of those hypothetical hosts can be construed as an aggregator. Sanchez is very clear about the functions that are performed by his host, for example, through out the specification Sanchez emphasizes that the "host manages the membership reward program in which consumers participate as members, and includes one or more servers in communication with consumers, partners and 3rd party information providers via the communication network. The host also includes one or more databases for storing system and consumer data necessary to implement the reward program." (Paragraph [0016], last two sentence, underlining added.). Also, see, paragraph [0045], last sentence: "The host 20 rewards the consumers 12 for participation in the program by calculating and providing special offers and/or redeemable points to the consumer." This single host (or the hypothetical multiple hosts) can at best, be construed as the "processor" of the claimed invention, and not the "aggregators." In fact, the Examiner has construed the host 20 as a "processor/central entity" on last line of page 3 of the Office action. In short, Sanchez is about a reward system for consumers and partners (participating merchants). There is no rule for aggregators in the system of Sanchez.

Second, regarding the limitation of "selecting by the participant a selected aggregator from the plurality of aggregators," there is no teaching or suggestion in Sanchez/Schwarz combination for this limitation. Applicant respectfully disagrees with the Examiner's assertion that paragraph [0080] of Sanchez teaches this limitation. (See, Office action, page 17, bottom paragraph to page 18, top paragraph.). The above mentioned paragraph is simply a "boiler plate," standard paragraph that mentions "modifications and other embodiments of the invention will come to mind to one skilled in the art to which this invention pertains having the benefit of

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the teachings presented in the foregoing descriptions and the associated drawings." Applicant fails to see how this paragraph would suggest the above novel and unobvious limitation, or how one skilled in the art would infer the above limitation from the disclosure of Sanchez. Again, as mentioned above, Sanchez does not have any aggregators at all.

Third, with regards to the limitation of "sending a portion of the funds received by the processor to the selected aggregator," Applicant respectfully disagrees with Examiner's statement that the prefunded accounts and collective accounts of Schwarz suggest the above limitation. Rather, the cited text in Schwarz (col. 2, lines 34-39 col. 4, lines 45-46 and 58-60) simply teaches funding a collective account either based on an aggregate usage of some associated tags or aggregate of associated prefunded account balances. That is, the balance ("float") of a prefunded account (simply, a prepaid account for toll credit) can also contribute to fund a collective account. These two alternative processes are clearly depicted in FIGs. 2 and 3 of Schwarz and explained in detail in the associated text. Referring to FIG. 2, an associated tag usage is detected and the associated prefunded account is debited for the amount of the purchase. (Steps 210 and 220). The usage (purchase) is then aggregated (step 230) and a bonus is calculated based on the aggregated usage (step 240). Similarly, referring to FIG. 3 of Schwarz, instead of aggregating the tag usage (step 230 in FIG. 2), the prefunded account balances are aggregated for each tag and/or prefunded account associated with a collective account (step 330).

However, the above disclosure does not teach or suggest "sending a portion of the funds received by the processor to the selected aggregator." Rather, in the claimed invention, "funds corresponding to a portion of the amount for the purchase transaction" are already received by the processor. The processor then shares the received funds (which already correspond to a portion of the amount for the purchase) with the aggregator by "sending a portion of the funds received by the processor to the selected aggregator." The above disclosure in Schwarz, at best, may suggest "receiving the amount for the purchase transaction, and funds corresponding to a portion of the amount for the purchase transaction," but not "sending a portion of the funds received by the processor [which is already a portion of the purchase amount] to the selected aggregator."

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Fourth, Sanchez/Schwarz combination does not teach or suggest the limitation of "wherein each of the processor, selected aggregator, participant, and merchant has a respective access right for accessing the stored information in the database and different portions of the stored information are accessible by the processor, selected aggregator, participant, and merchant based on the respective access right." Applicant respectfully disagrees with Examiner's assertion that the "facts known by the host . . . as definable by item 50 Business Rules" suggests the above limitation. Firstly, the "facts known by the host" may be shared by all or some of the members and/or the partners. In fact, the member card information, which includes the member's name, address, telephone number, email address, credit card information, frequent shopper card information and/or membership tracking card information, is transmitted to the partners. (See, for example, paragraph [0055], lines 27-30, and paragraph [0017], lines 14-18).

More importantly, the Business Rules 50 are only to calculate the members points and not any "access right for accessing the stored information." For example, see, paragraph [0068], lines 4-7, paragraph [0070], lines 12-21. There is no suggestion in Sanchez that the Business Rules 50 specifically used to determination of "points" also define certain access rights. Furthermore, there is no disclosure in Sanchez about members and partners having "respective access right [not simply passwords] for accessing the stored information in the database [host]." Neither there is any disclosure in Sanchez about "different portions of the stored information are accessible by the processor, selected aggregator, participant, and merchant based on the respective access right."

Finally, none of the cited references, alone or in combination, teach or suggest the limitation of "wherein the collaborative affinity marketing system is capable of enrolling the participant while maintaining participant's anonymity from the selected aggregator, the merchant, and the processor," or "maintaining participant's anonymity from the aggregator, the merchant, and the processor." Yet, the Examiner cites to a new reference, Walker as suggesting the above limitations. However, Walker is about a subscription system that allows a consumer to establish a subscription to a product and to redeem subscription products at the retailer. (Abstract). This is in a different field that the present invention which is directed to a reward system, in which a

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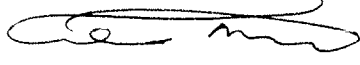
portion of the purchase price goes to a (third party, for example, a charitable) entity. Walker only deals with consumers, and products/merchants. Therefore, Applicant respectfully submits that Walker reference is directed to a different field and is thus "non-analogous art."

As a result, for at least each one of the above five reasons, amended independent claims 1 and 38 are allowable over the cited references.

Dependent claims 2-21 and the withdrawn dependent claims 39-45 are dependent from allowable independent claims 1 and 38, respectively and therefore include all the limitations of respective independent claims 1 and 38 and additional limitations therein. Accordingly, these claims are also allowable over the cited references, as being dependent from an allowable independent claim and for the additional limitations they include therein.

In view of the foregoing amendments and remarks, it is respectfully submitted that this application is now in condition for allowance, and accordingly, reconsideration and allowance are respectfully requested.

Respectfully submitted,
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